

DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER 94-0042 ST
Sales/Use Tax
For Tax Years 1988, 1989, 1990, And 1991

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ISSUES

1. SALES/USE TAX - AMOUNT DUE

Authority: IC 6-8.1-5-1

The taxpayer protested the amount of tax due.

STATEMENT OF FACTS

Taxpayer is a sole proprietorship that acts as a retail merchant. The taxpayer operates on a cash basis. Taxpayer collects sales tax at the time of the sale. The taxpayer did not maintain adequate books and records. The audit was based on the best information available.

DISCUSSION

1. SALES/USE TAX - AMOUNT DUE

The taxpayer protested the amount of tax assessed in the audit. The taxpayer stated that sales tax was collected and not remitted to the department. The funds were used for cash flow. The taxpayer did not have additional records available. The taxpayer stated that he had given all of his records to the auditor. Under IC 6-8.1-5-1, the notice of proposed assessment is prima facie evidence that the assessment is valid. The taxpayer stated that some of the sales were to a dealer in another city and that the sales tax should have been remitted by that entity. The taxpayer did not provide evidence that any of its sales were exempt. IC 6-8.1-5-4 requires the taxpayer to keep adequate books and records. The taxpayer had few books and records. The books and records maintained by the taxpayer were determined to be inadequate and the auditor had to resort to the best information available.

FINDINGS

The taxpayer's protest is denied.